REMARKS

Reconsideration and re-examination of this application are respectfully requested in view of the above amendments and below remarks.

Rejections under 35 U.S.C. §101

Claims 10, 14-16, 18 and 20-23 were rejected under 35 U.S.C. §101 as directed to non-statutory subject matter, since they allegedly disclose an abstract idea.

It is well known that for such subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. See *Alappat*, 33 F.3d at 1543, 31 USPQ2d at 1556-57 (quoting *Diamond v. Diehr*, 450 U.S. at 192, 209 USPQ at 10). See also *Alappat* 33 F.3d at 1569, 31 USPQ2d at 1578-79 (Newman, J., concurring) ("unpatentability of the principle does not defeat patentability of its practical applications") (citing *O'Reilly v. Morse*, 56 U.S. (15 How.) at 114-19).

A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result; i.e., the method recites a step or act of producing something that is concrete, tangible and useful. See *AT&T*, 172 F.3d at 1358, 50 USPQ2d at 1452. Likewise, a machine claim is statutory when the machine, as claimed, produces a concrete, tangible and useful result (as in *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601) and/or when a specific machine is being claimed (as in *Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557 (**>en< banc*). For example, a computer process that simply calculates a mathematical algorithm that models noise is nonstatutory. However, a claimed process for digitally filtering noise employing the mathematical algorithm is statutory.

Claims 16, 18 and 20-23 are directed at a method of determining a schedule for

switching data bursts in a buffer-less space switch. Applicant has amended claims 16 and 20 to clearly show the practical application of the schedule, which is used to switch data bursts from input ports to output ports in a buffer-less space switch. In view of these amendments, it is respectfully requested that the rejection be withdrawn.

Applicant has cancelled claims 10, 14, and 15 without prejudice or disclaimer.

Allowable Claims:

The Examiner has indicated that claims 1-9, 24-28 and 32 are allowed.

Applicant has made a diligent effort to place all claims of the application in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Lindsay G. McGuinness, Applicant's Attorney at 978-264-6664 so that such issues may be resolved as expeditiously as possible.

In view of the above amendments and arguments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

11/8/2006   /Lindsay G. McGuinness/

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